

Appl. No. 09/750,739  
Amdt. dated Sept. 14, 2004  
Reply to Office action of July 14, 2004  
Page 6

### **REMARKS**

In accordance with the foregoing, claims 1, 8 and 13 have been amended. Claims 1-15 are pending and under consideration.

#### **I. Objections to the Claims**

Claims 1-7 stand objected to because of informalities. Claim 1 has been amended to remove the "memory associated with the implanted medical device" so that the limitation is recited only once. Accordingly, withdrawal of the objections is respectfully requested.

#### **II. Rejections Under 35 USC § 112**

Claims 13-15 stand rejected under 35 USC § 112, first paragraph as failing to comply with the written description requirement. Claim 13 has been amended to include determining, in response to the access request being associated with the overdrive function, granting a level of access associated with a predetermined authorization level. Accordingly, withdrawal of the rejection is respectfully requested.

#### **III. Rejections Under 35 USC § 103**

Claims 1-9 and 11-13 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,456,692 to Smith et al ("Smith") in combination with U.S. Patent No. 4,993,068 to Piosenka et al. ("Piosenka") and U.S. Patent No. 6,615,191 to Seeley ("Seeley"). Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. (US Pat. 5,456,692), Piosenka et al. (US Pat. 4,993,068) and Seeley (US Pat. 6,615,191 B1), as applied to claim 8 above, in further combination with Clayden (US Pat. 5,787,185). Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. (US Pat. 5,456,692), Piosenka et al. (US Pat. 4,993,068) and Seeley (US Pat. 6,615,191 B1), as applied to claim 13 above, in

Appl. No. 09/750,739  
Amdt. dated Sept. 14, 2004  
Reply to Office action of July 14, 2004  
Page 7

further combination with Freed et al. (US Pat. 6,132,363). The Examiners rejections are respectfully traversed.

As stated by the Examiner, Smith and Piosenka do not teach the determining whether the potential user is requesting access associated with an overdrive function. While Seeley teaches an override mechanism to allow the customer to override the biometric access, such as in the case of an injured finger that is not recognized by the match detector, none of the referenced prior art documents, alone or in combination, teach or suggest granting, in response to the access request being associated with the overdrive function, a level of access associated with a predetermined authorization level, as set forth in independent claims 1, 8 and 13 of the present invention. Accordingly, withdrawal of the rejections is respectfully requested.

#### IV. Conclusion


There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

TIMOTHY J. NICHOLS ET AL.

September 14, 2004  
Date

  
Michael C. Soldner  
Reg. No. 41,455  
(763) 514-4842  
Customer No. 27581